

(n) The association's most recent audited financial statements and Thrift Financial Report with an appropriate explanation to support the determination that the association's current capital levels qualify it to undertake a supervisory conversion.

(o) *Pro forma* financial statements prepared in accordance with the regulations and policies of the OTS to reflect the effects of the transaction. These *pro forma* financial statements should be supplemented to identify the converting or resulting association's tangible, core, and risk-based capital levels and show the appropriate adjustments necessary to compute such capital levels.

(p) An opinion of independent counsel that the voluntary supervisory conversion of a state-chartered savings association to state stock form is authorized under applicable state law, if applicable.

(q) A specific description of any of the features of the savings association's application that do not conform to the requirements of this subpart.

(r) A specific description of and detailed justification for any waivers or supervisory forbearances that are requested as part of the voluntary supervisory conversion.

(s) A statement of all other applications required pursuant to federal or state banking laws for all transactions related to the association's conversion, copies of all decisions, orders, opinions, and other similar dispositive documents issued by such regulatory authorities relating to such applications, and, if requested by the OTS, copies of such applications and related documents.

[54 FR 49596, Nov. 30, 1989, as amended at 57 FR 49381, Nov. 2, 1992]

§ 563b.28 Liquidation account.

A liquidation account must be established in accordance with the requirements set forth at § 563b.3(f) of this part; provided, however, that the OTS may waive this requirement if the converting association's tangible capital is less than zero, or for other good cause.

[57 FR 49382, Nov. 2, 1992]

§ 563b.29 Procedural requirements.

(a) *Filing of voluntary supervisory conversion application.* A savings association seeking to convert pursuant to this subpart shall file with the OTS the information and documents specified in § 563b.27 of this subpart.

(b) *Incomplete application.* An application for supervisory stock conversion that does not contain all of the applicable information and documents specified in § 563b.27 of this part shall constitute an incomplete application, and the Regional Director shall continue to seek other appropriate supervisory resolutions of the association's financial condition pending the filing of a complete application.

(c) [Reserved]

(d) *Termination or amendment of charter.* (1) Upon approval by the Office of a plan of supervisory stock conversion of a state-chartered savings association or a federally-chartered savings association which is converting to a state-chartered stock savings association, the mutual charter of such savings association shall terminate upon the issuance to it of a stock charter under the laws of the state in which its home office is located. If such converting savings association is a federally-chartered savings association, its federal charter shall be surrendered promptly to the Office for cancellation. A savings association converting to a state-chartered stock savings association shall promptly file with the Office a copy of the stock charter issued to it.

(2) A mutual savings association converting to a federally-chartered stock savings association shall apply to amend its charter and bylaws to read in a form consistent with part 552 of this chapter. The effective date of such amendment shall be stated in the Office's order approving the conversion.

(3) The corporate existence of a mutual savings association converting to a federally-chartered stock savings association shall not terminate, but the converted association shall be deemed to be a continuation of the association so converted. In the case of a federal or state-chartered mutual savings association converting to a state-chartered stock savings association, unless state law otherwise prescribes, the corporate

Office of Thrift Supervision, Treasury

§ 563b.100

existence of the converting mutual savings association shall similarly not terminate and the converted savings association shall be deemed to be a continuation of the savings association so converted.

[54 FR 49596, Nov. 30, 1989, as amended at 55 FR 13516, Apr. 11, 1990; 57 FR 14348, Apr. 20, 1992. Redesignated at 57 FR 49382, Nov. 2, 1992; 60 FR 66718, Dec. 26, 1995]

§ 563b.30 Conditions of approval.

The Office's approval of a supervisory conversion application will be conditioned upon the following:

(a) Completion of the sale of conversion stock within a maximum of three months after the Office approves the application, or within such additional period as the OTS may for good cause grant;

(b) Compliance with all filing requirements of 12 CFR parts 563b and 563g;

(c) Submission of an opinion of independent legal counsel that all applicable state securities law requirements have been met in connection with the sale of the association's conversion stock;

(d) Compliance with all applicable laws, rules, and regulations; and

(e) Satisfaction of any other requirement or conditions the Office may impose.

[54 FR 49596, Nov. 30, 1989, as amended at 57 FR 14348, Apr. 20, 1992. Redesignated at 57 FR 49382, Nov. 2, 1992]

§ 563b.31 Sale of conversion stock.

Each savings association that converts pursuant to this subpart shall offer and sell its conversion stock pursuant to the requirements of 12 CFR part 563g.

[54 FR 49596, Nov. 30, 1989. Redesignated at 57 FR 49382, Nov. 2, 1992]

§ 563b.32 Expenses.

Expenses incurred by a savings association in connection with its voluntary supervisory conversion application shall be reasonable and, with respect to a SAIF-insured savings association, shall not be in an amount such that the payment of such expenses would render the proceeds to the association from the sale of its conversion

stock insufficient to satisfy the viability requirement of § 563b.26 of this subpart.

[54 FR 49596, Nov. 30, 1989. Redesignated at 57 FR 49382, Nov. 2, 1992]

§ 563b.33 Employment contracts.

An applicant for voluntary supervisory conversion must justify any employment contract incidental to the conversion, and otherwise demonstrate that the making of such an employment contract by a savings association would not be an unsafe or unsound practice or represent a sale of control. The Office shall determine the permissibility of such contract based upon, at a minimum, the applicant's justification for the contract, the term, salary, and severance provisions of the contract, the identity and background of the officer or employee who is subject to the employment contract, and the amount of the conversion stock to be purchased by such officer or employee or his or her affiliates or associates. Any employment contract incident to a voluntary supervisory conversion with a term in excess of one year granted to existing management of a savings association generally will be disfavored.

[54 FR 49596, Nov. 30, 1989. Redesignated at 57 FR 49382, Nov. 2, 1992]

Subpart D [Reserved]

Subpart E—Forms

§ 563b.100 Form AC—Application for Conversion.

FORM AC

[Facing Sheet]

OFFICE OF THRIFT SUPERVISION
1700 G Street, NW., Washington, DC 20552

APPLICATION FOR CONVERSION

(Exact name of Applicant as specified in charter)

(Street address of applicant)

(City, State and Zip Code)

Date of Application _____